

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

In re: _____) Chapter 11
EASTERN LIVESTOCK CO., LLC, _____) Case No. 10-93904-BHL-11
Debtor. _____)
_____)

TRUSTEE'S OBJECTION TO CLAIM 353 FILED BY GLEN FRANKLIN

James A. Knauer, the chapter 11 trustee appointed in this case ("Trustee"), pursuant to Rule 3007 of the Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules"), hereby objects (this "Objection") to claim 353 (the "Claim")¹ filed by Glen Franklin ("Mr. Franklin"). Because the Trustee and Mr. Franklin are currently engaged in ongoing settlement discussions, the Trustee requests that the Court stay further proceedings on this Objection until further notice from the Trustee or Mr. Franklin. In support of this Objection, the Trustee respectfully states:

Jurisdiction

1. This Court has jurisdiction over this Objection under 28 U.S.C. § 1334.

This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2)(B). Venue of this proceeding and this Objection is properly in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory bases for the relief requested herein are 11 U.S.C. §§ 502, 506 and 507 and Rules 3001 and 3007 of the Bankruptcy Rules.

Background

3. On December 6, 2010 (the "Petition Date"), an involuntary chapter 11

¹ All references herein to the claim number are to the number assigned to the Claim by BMC (see paragraph 5 below) and not to the number, if any, assigned to the Claim by the Court's online claims register. For further explanation, see paragraph 5 below.

bankruptcy petition was filed to commence a chapter 11 case (the "Chapter 11 Case") against Eastern Livestock Co., LLC ("Debtor") in the United States Bankruptcy Court for the Southern District of Indiana, New Albany Division (the "Court").

4. On December 27, 2010, the Court entered an order approving the appointment of the Trustee and on December 28, 2010, entered an order for relief.

5. On March 17, 2011, the Court entered an order approving The BMC Group, Inc. ("BMC") as the Trustee's claims and noticing agent in the Chapter 11 Case. Pursuant to that order, BMC was authorized and directed to, among other things, maintain the official claims register ("Claims Register") for all filed proofs of claim in the Chapter 11 Case. A copy of that Claims Register and all filed proofs of claim in the Chapter 11 Case can be viewed at <http://www.bmcgroup.com/restructuring/Claims.aspx?ClientID=271>.

6. The Court entered an order confirming the *Trustee's First Amended Chapter 11 Plan of Liquidation* [Dock. No. 1490] (the "Plan") on December 17, 2012, and the Plan became effective on December 20, 2012. *See* Dock. No. 1675.

7. Pursuant to the Plan, the deadline for claim objections is April 19, 2013.

Request for Relief

8. By this Objection, the Trustee seeks entry of an order disallowing the Claim. However, the Trustee requests that the Court stay further proceedings on this Objection pending notice from the Trustee or Mr. Franklin that settlement discussions have proven unsuccessful.

9. The Claim asserts an unsecured claim in the amount of \$375,427.78.

10. The Trustee believes that the Claim improperly includes amounts not payable by Debtor. Further, the Trustee believes that the estate possesses claims against Mr.

Franklin that exceed the amount of the Claim. The Claim may also be subject to disallowance pursuant to 11 U.S.C. § 502(d).

11. The Trustee is in discussions with Mr. Franklin regarding the Claim and claims that the Trustee asserts against Mr. Franklin. The Trustee and Mr. Franklin have entered into tolling agreements to extend certain deadlines and statutes of limitations while the Trustee and Mr. Franklin discuss potential settlement.

12. The Trustee therefore requests that the Court stay further proceedings on this Objection to allow the parties time to discuss settlement.

WHEREFORE, the Trustee objects to the Claim but respectfully requests that the Court stay further proceedings on this Objection until further notice from the Trustee or Mr. Franklin. The Trustee asks for all other just and appropriate relief.

Respectfully submitted,

FAEGRE BAKER DANIELS LLP

By: /s/ Dustin R. DeNeal

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CERTIFICATE OF SERVICE

I hereby certify that on April 19, 2013, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

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I further certify that on April 19, 2013, a copy of the foregoing pleading was mailed by first-class U.S. Mail, postage prepaid and properly addressed, to the following:

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